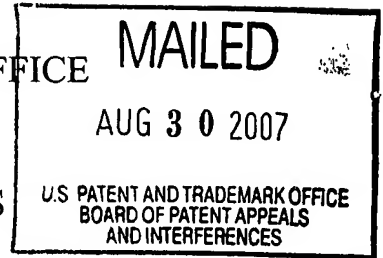


The opinion in support of the decision being entered today
is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte DANIEL W. BEDELL, GREGORY BREYTA,
TOM K. HARRIS, III, APRIL D. HIXSON-GOLDSMITH,
MURALI RAMASUBRAMANIAN, ALFRED RENALDO,
and BENJAMIN L. WANG

Appeal 2007-3954
Application 10/733,097

ORDER REMANDING TO EXAMINER

On May 15, 2006, the Examiner entered a Final rejection of the
following claims:

(a) claims 1-8, 13-22 and 27-28 under 35 U.S.C. § 103 as being
unpatentable over Breyta in view of Whewell;

(b) claims 9-11 and 23-25 under 35 U.S.C. § 103 as being
unpatentable over Breyta in view of Whewell, as applied to claims 1-8, 13-22
and 27-28 above, further in view of Lee;

(c) claims 12 and 26 under 35 U.S.C. § 103 as being unpatentable over
Breyta in view of Whewell, further in view of Pinarbasi; and

(d) claim 36 under 35 U.S.C. § 103 as being unpatentable over Breyta in view of Whewell and Hawkins.

On July 17, 2006, Appellants filed an amendment. The Examiner notified Appellants in an Advisory Action mailed on August 2, 2006, that the amendment would be entered and that based on Appellants' amendment, claims 15-28 would be allowed. On October 16, 2006, Appellants filed an Appeal Brief. On January 12, 2007, the Examiner mailed an Examiner's Answer in response to Appellants' Brief.

On page 3 of the Answer, section (9) under the heading of "Grounds of Rejection," the Examiner rejected claims 1-14 and 36 under 35 U.S.C. § 103 as being unpatentable over Breyta in view of Whewell. It is not clear why the Examiner has included claims 9-12 and 36 in this rejection.

In addition, a review of the Claims Appendix to the Brief reveals that Appellants have included a copy of claims 15 through 28, which have been allowed by the Examiner. A correct copy of the Claims Appendix is required with the proper status identifiers.

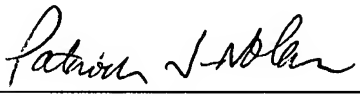
Appeal 2007-3954
Application 10/733,097

Accordingly, it is

ORDERED that the application is remanded to the Examiner to resolve the following issues:

- (1) to clarify for the record the proper rejections of claims on appeal;
- (2) to notify Appellants in writing as to the proper rejection of claims on appeal;
- (3) to notify Appellants to submit a new Claims Appendix to the Brief filed on October 16, 2006; and
- (4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN:clj

Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120